$~10.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **ITA 318/2017**

PR. COMMISSIONER OF INCOME TAX-6, NEW DELHI ..... Appellant

Through: Mr.Asheesh Jain, Sr. Standing Counsel, with Mr.Vikrant A.Maheshwari, Advocate.

Versus

MENTOR GRAPHICS (INDIA) P. LIMITED ..... Respondent

Through: Mr.Himanshu Sinha, Advocate with Ms.Vrinda Tulshan, Advocate.

**CORAM: JUSTICE S.MURALIDHAR**
**JUSTICE CHANDER SHEKHAR**

**<u>O R D E R</u>**

% **02.05.2017**

1. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 (Act) is against an order dated 21st September, 2016 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No.1565/HYD/2010 for the Assessment Year (AY) 2006-07.

2. There are two broad issues raised by the Revenue in this appeal. One concerns exclusion of certain comparables for the purpose of calculation of the arm's length price of the international transaction involving the Assessee during the AY 2005-06. The grievance of the Revenue is that without a proper discussion and merely relying on past precedents, the ITAT has excluded the comparables chosen by the Transfer Pricing Officer (TPO) after rejecting the 22 comparables included by the Assessee in its Transfer

Pricing study.

3. The Court has carefully perused the impugned order of the ITAT and the discussion on this aspect. In the considered view of this Court, while it is true that previous precedents have been relied upon by the ITAT, it would be incorrect to say that ITAT did not take into account the factors that weighed with it for excluding the said comparables. The Court does not find any substantial question of law arising on this aspect and therefore, declines to frame any question.

4. The second issue concerns the deduction under Section 10 A of the Act. The case of the Revenue is that ITAT erred in accepting the case of the Assessee that the communication charges should stand excluded both from the export turnover as well as the total turnover. It is seen that this Court in ***CIT v. Genpact India 203 Taxman 632*** has answered this very issue in favour of the Assessee and against the Revenue. Consequently, no substantial question of law arises on this issue as well.

5. The appeal is dismissed.

**S.MURALIDHAR, J**

**CHANDER SHEKHAR, J**

**MAY 02, 2017**
*'anb'*